

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 722

**Introduced by Assembly Member Bonnie Lowenthal
(Coauthors: Assembly Members Beall and Chesbro)**

February 26, 2009

An act to add Section 1374.74 to the Health and Safety Code and to add Section 10144.7 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 722, as amended, Bonnie Lowenthal. Preexisting conditions.

Existing law provides for licensing and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Insurance Commissioner. Existing law authorizes a health care service plan or health insurer to exclude an applicant from coverage for a specified time for preexisting conditions. *A willful violation of provisions governing health care service plans is a crime.*

~~This bill would state the intent of the Legislature, in the absence of comprehensive health care reform that guarantees group coverage to all, to enact legislation to provide that a person with a history of seeking mental health treatment or of having a prescription for mental health medication shall not be determined to have a preexisting condition or otherwise be denied coverage by a health care service plan or a health insurer.~~ *prohibit an individual health care service plan contract or health insurance policy from denying coverage to, or excluding coverage for, an enrollee or insured due to a preexisting condition provision or otherwise, as specified, due to a mental or physical condition that is*

not life threatening nor chronic or severe, that is not considered to be a present condition at the time of enrollment, and for which the enrollee or insured has not received treatment for the past 12 months. By imposing a new requirement on health care service plans, the willful violation of which would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1374.74 is added to the Health and Safety
2 Code, to read:

3 1374.74. Notwithstanding Section 1357.51 or any other
4 provision of law, an individual health care service plan contract
5 shall not deny coverage to, or exclude coverage for, an enrollee
6 on the basis of a preexisting condition provision or a waived
7 condition provision or impose a waiting or affiliation period due
8 to a mental or physical condition that is not life threatening nor
9 chronic or severe, that is not considered to be a present condition
10 at the time of enrollment, and for which the enrollee has not
11 received treatment for the past 12 months.

12 SEC. 2. Section 10144.7 is added to the Insurance Code, to
13 read:

14 10144.7. Notwithstanding Section 10198.7 or any other
15 provision of law, an individual health insurance policy shall not
16 deny coverage to, or exclude coverage for, an insured on the basis
17 of a preexisting condition provision or a waived condition
18 provision or impose a waiting or affiliation period due to a mental
19 or physical condition that is not life threatening nor chronic or
20 severe, that is not considered to be a present condition at the time
21 of enrollment, and for which the insured has not received treatment
22 for the past 12 months.

1 *SEC. 3. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

10 ~~SECTION 1. It is the intent of the Legislature, in the absence~~
11 ~~of comprehensive health care reform that guarantees group~~
12 ~~coverage to all, to enact legislation to provide that a person with~~
13 ~~a history of seeking mental health treatment or of having a~~
14 ~~prescription for mental health medication shall not be determined~~
15 ~~to have a preexisting condition or otherwise be denied coverage~~
16 ~~by a health care service plan or a health insurer.~~